



Reprinted
February 26, 2002

ENGROSSED SENATE BILL No. 277

DIGEST OF SB 277 (Updated February 25, 2002 1:30 PM - DI 97)

Citations Affected: IC 5-10; IC 27-1; IC 27-8; IC 27-13; noncode.

Synopsis: Insurance. Amends the clean claims law that specifies the period within which an administrator of a state employee health benefit plan, an insurer, or a health maintenance organization must pay, deny, or notify a provider of deficiencies concerning a claim. Requires the department of insurance to adopt rules regulating use of credit information by certain insurers. Requires an insurer to obtain written approval before obtaining an insured's or applicant's credit information. Amends the interest rate upon which the minimum forfeiture amount for annuity contracts issued from July 1, 2002, through June 30, 2004, is based. Requires a member of the comprehensive health insurance association (ICHIA) to annually report the amount of tax credits taken against ICHIA assessments by the member. Requires ICHIA to report certain information annually for three years. (The introduced version of this bill was prepared by the health finance commission.)

Effective: Upon passage; July 1, 2002.

Johnson

(HOUSE SPONSORS — CROOKS, RIPLEY)

January 7, 2002, read first time and referred to Committee on Health and Provider Services.

January 24, 2002, reported favorably — Do Pass.

January 28, 2002, read second time, ordered engrossed. Engrossed.

January 29, 2002, returned to second reading.

February 1, 2002, reread second time, amended, ordered engrossed.

February 4, 2002, re-engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 11, 2002, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 19, 2002, amended, reported — Do Pass.

February 25, 2002, read second time, amended, ordered engrossed.

ES 277—LS 6248/DI 97+



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

ENGROSSED SENATE BILL No. 277

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-10-8.1-6, AS ADDED BY P.L.162-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 6. (a) The administrator shall pay or deny
4 each clean claim in accordance with section 7 of this chapter.
5 (b) An administrator shall notify a provider of any deficiencies in a
6 submitted claim not ~~less~~ **more** than:
7 (1) thirty (30) days for a claim that is filed electronically; or
8 (2) forty-five (45) days for a claim that is filed on paper;
9 and describe any remedy necessary to establish a clean claim.
10 (c) Failure of an administrator to notify a provider as required under
11 subsection (b) establishes the submitted claim as a clean claim.
12 SECTION 2. IC 27-1-3-7.5 IS ADDED TO THE INDIANA CODE
13 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
14 UPON PASSAGE]: Sec. 7.5. (a) **As used in this section, "credit**
15 **information" means credit related information obtained through**
16 **a review of a credit history, credit report, or credit score, or on an**
17 **application for a policy of property and casualty insurance.**

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(b) As used in this section, "insurer" means a person that:

(1) is described in IC 27-1-2-3(x); and

(2) issues a policy of property and casualty insurance.

(c) As used in this section, "property and casualty insurance" means one (1) or more of the kinds of insurance described in Class 2 and Class 3 of IC 27-1-5-1.

(d) The department shall adopt rules under IC 4-22-2 to regulate an insurer's use of credit information in underwriting a policy of property and casualty insurance.

(e) An insurer shall not obtain credit information on an insured or an applicant without giving sufficient notice and obtaining the written approval of the insured or the applicant. The written approval of the insured or the applicant shall be valid for all subsequent requests for credit information while insured by the insurer unless revoked in writing by the insured or the applicant.

SECTION 3. IC 27-1-12.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The minimum values as specified in sections 4, 5, 6, 7, and 9 of this chapter of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(b) With respect to any annuity contract providing for flexible considerations, the minimum nonforfeiture amounts at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(1) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum, and

(2) the amount of any indebtedness to the company on the contract, including interest due and accrued,

and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less than an annual contract charge of thirty dollars (\$30.00) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and

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one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(c) With respect to any annuity contract providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

(1) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(2) The annual contract charge shall be the lesser of (i) thirty dollars (\$30.00) or (ii) ten percent (10%) of the gross annual consideration.

(d) With respect to any annuity contract providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75.00).

(e) Notwithstanding any other provision of this section, the minimum nonforfeiture amount for any contract issued on or after July 1, 2002, and before July 1, 2004, shall be based on a rate of interest of one and one-half percent (1.5%) per annum.

SECTION 4. IC 27-8-5.7-5, AS ADDED BY P.L.162-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An insurer shall pay or deny each clean claim in accordance with section 6 of this chapter.

(b) An insurer shall notify a provider of any deficiencies in a submitted claim not ~~less~~ more than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of an insurer to notify a provider as required under

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subsection (b) establishes the submitted claim as a clean claim.

SECTION 5. IC 27-8-10-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 2.3. A member shall, not later than October 31 of each year, certify an independently audited report to the:**

(1) association;

(2) legislative council; and

(3) department of insurance;

of the amount of tax credits taken against assessments by the member under section 2.1(n)(1) of this chapter during the previous calendar year.

SECTION 6. IC 27-13-36.2-3, AS ADDED BY P.L.162-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A health maintenance organization shall pay or deny each clean claim in accordance with section 4 of this chapter.

(b) A health maintenance organization shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of a health maintenance organization to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim.

SECTION 7. IC 27-13-36.2-4, AS ADDED BY P.L.162-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A health maintenance organization shall pay or deny each clean claim as follows:

(1) If the claim is filed electronically, not ~~less~~ **more** than thirty (30) days after the date the claim is received by the health maintenance organization.

(2) If the claim is filed on paper, not ~~less~~ **more** than forty-five (45) days after the date the claim is received by the health maintenance organization.

(b) If:

(1) a health maintenance organization fails to pay or deny a clean claim in the time required under subsection (a); and

(2) the health maintenance organization subsequently pays the claim;

the health maintenance organization shall pay the provider that submitted the claim interest on the lesser of the usual, customary, and reasonable charge for the health care services provided to the enrollee

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or an amount agreed to between the health maintenance organization and the provider paid under this section.

(c) Interest paid under subsection (b):

(1) accrues beginning:

(A) thirty-one (31) days after the date the claim is filed under subsection (a)(1); or

(B) forty-six (46) days after the date the claim is filed under subsection (a)(2); and

(2) stops accruing on the date the claim is paid.

(d) In paying interest under subsection (b), a health maintenance organization shall use the same interest rate as provided in IC 12-15-21-3(7)(A).

SECTION 8. [EFFECTIVE JULY 1, 2002] (a) As used in this SECTION, "association" has the meaning set forth in IC 27-8-10-1.

(b) As used in this SECTION, "association policy" has the meaning set forth in IC 27-8-10-1.

(c) As used in this SECTION, "insured" has the meaning set forth in IC 27-8-10-1.

(d) Beginning December 1, 2002, not later than December 31 of each calendar year, the association shall report the following information for the immediately preceding calendar year to the legislative council and the department of insurance:

(1) The rate of turnover of insureds.

(2) The percentage of premiums for association policies that are paid by the following:

(A) An insured.

(B) A third party.

(3) The amount that each individual association member is:

(A) assessed under IC 27-8-10-2.1(g); and

(B) able to take in tax credits under IC 27-8-10-2.1(n).

(4) The impact of insuring federally eligible individuals under association policies.

(e) This SECTION expires June 30, 2005.

SECTION 9. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding IC 27-1-3-7.5, as added by this act, the department of insurance shall carry out the duties imposed upon the department of insurance under IC 27-1-3-7.5, as added by this act, under interim written guidelines approved by the commissioner of the department of insurance.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 27-1-3-7.5, as added by this act.



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1 **(2) December 31, 2006.**
2 **SECTION 10. An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 277, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 277 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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ES 277—LS 6248/DI 97+



SENATE MOTION

Mr. President: I move that Senate Bill 277, which is eligible for third reading, be returned to second reading for purposes of amendment.

JOHNSON

SENATE MOTION

Mr. President: I move that Senate Bill 277 be amended to read as follows:

Page 1, line 3, delete "March 1" and insert "**October 31**".

(Reference is to SB 277 as printed January 25, 2002.)

JOHNSON

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 277, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-3-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "credit information" means credit related information obtained through a review of a credit history, credit report, or credit score, or on an application for a policy of property and casualty insurance.**

(b) As used in this section, "insurer" means a person that:

(1) is described in IC 27-1-2-3(x); and

(2) issues a policy of property and casualty insurance.

(c) As used in this section, "property and casualty insurance" means one (1) or more of the kinds of insurance described in Class 2 and Class 3 of IC 27-1-5-1.

(d) The department shall adopt rules under IC 4-22-2 to regulate an insurer's use of credit information in underwriting a policy of property and casualty insurance.

SECTION 2. IC 27-1-12.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The minimum values as specified in sections 4, 5, 6, 7, and 9 of this chapter of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(b) With respect to any annuity contract providing for flexible considerations, the minimum nonforfeiture amounts at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of:

(1) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum, and

(2) the amount of any indebtedness to the company on the contract, including interest due and accrued,

and increased by any existing additional amounts credited by the company to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an

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amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less than an annual contract charge of thirty dollars (\$30.00) and less a collection charge of one dollar and twenty-five cents (\$1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(c) With respect to any annuity contract providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

(1) The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

(2) The annual contract charge shall be the lesser of (i) thirty dollars (\$30.00) or (ii) ten percent (10%) of the gross annual consideration.

(d) With respect to any annuity contract providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars (\$75.00).

(e) Notwithstanding any other provision of this section, the minimum nonforfeiture amount for any contract issued on or after July 1, 2002, and before July 1, 2004, shall be based on a rate of interest of one and one-half percent (1.5%) per annum."

Page 1, line 1, delete "IC 27-8-10-2.2" and insert "IC 27-8-10-2.3".

Page 1, line 3, delete "2.2." and insert "2.3."

Page 1, line 17, delete "January 1, 2003," and insert "**December 1,**

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2002,".

Page 1, line 17, delete "January 30" and insert "**December 31**".

Page 2, line 1, after "year" insert ",".

Page 2, line 10, delete "IC 27-8-10- 2.1(g)" and insert "**IC 27-8-10-2.1(g)**".

Page 2, after line 14, begin a new paragraph and insert:

"SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **Notwithstanding IC 27-1-3-7.5, as added by this act, the department of insurance shall carry out the duties imposed upon the department of insurance under IC 27-1-3-7.5, as added by this act, under interim written guidelines approved by the commissioner of the department of insurance.**

(b) **This SECTION expires on the earlier of the following:**

(1) **The date rules are adopted under IC 27-1-3-7.5, as added by this act.**

(2) **December 31, 2006.**

SECTION 6. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 277 as reprinted February 4, 2002.)

CROOKS, Chair

Committee Vote: yeas 6, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 277 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8.1-6, AS ADDED BY P.L.162-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The administrator shall pay or deny each clean claim in accordance with section 7 of this chapter.

(b) An administrator shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of an administrator to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim."

Page 3, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 4. IC 27-8-5.7-5, AS ADDED BY P.L.162-2001, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) An insurer shall pay or deny each clean claim in accordance with section 6 of this chapter.

(b) An insurer shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of an insurer to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim."

Page 3, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 6. IC 27-13-36.2-3, AS ADDED BY P.L.162-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A health maintenance organization shall pay or deny each clean claim in accordance with section 4 of this chapter.

(b) A health maintenance organization shall notify a provider of any deficiencies in a submitted claim not ~~less~~ **more** than:

(1) thirty (30) days for a claim that is filed electronically; or

(2) forty-five (45) days for a claim that is filed on paper;

and describe any remedy necessary to establish a clean claim.

(c) Failure of a health maintenance organization to notify a provider as required under subsection (b) establishes the submitted claim as a clean claim.

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SECTION 7. IC 27-13-36.2-4, AS ADDED BY P.L.162-2001, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A health maintenance organization shall pay or deny each clean claim as follows:

(1) If the claim is filed electronically, not ~~less~~ **more** than thirty (30) days after the date the claim is received by the health maintenance organization.

(2) If the claim is filed on paper, not ~~less~~ **more** than forty-five (45) days after the date the claim is received by the health maintenance organization.

(b) If:

(1) a health maintenance organization fails to pay or deny a clean claim in the time required under subsection (a); and

(2) the health maintenance organization subsequently pays the claim;

the health maintenance organization shall pay the provider that submitted the claim interest on the lesser of the usual, customary, and reasonable charge for the health care services provided to the enrollee or an amount agreed to between the health maintenance organization and the provider paid under this section.

(c) Interest paid under subsection (b):

(1) accrues beginning:

(A) thirty-one (31) days after the date the claim is filed under subsection (a)(1); or

(B) forty-six (46) days after the date the claim is filed under subsection (a)(2); and

(2) stops accruing on the date the claim is paid.

(d) In paying interest under subsection (b), a health maintenance organization shall use the same interest rate as provided in IC 12-15-21-3(7)(A)."

Re-number all SECTIONS consecutively.

(Reference is to ESB 276 as printed February 19, 2002.)

CROOKS

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 277 be amended to read as follows:

Page 1, between lines 15 and 16, begin a new paragraph and insert:

"(e) An insurer shall not obtain credit information on an insured or an applicant without giving sufficient notice and obtaining the written approval of the insured or the applicant. The written approval of the insured or the applicant shall be valid for all subsequent requests for credit information while insured by the insurer unless revoked in writing by the insured or the applicant."

(Reference is to ESB 277 as printed February 19, 2002.)

BURTON

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